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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,938	06/26/2003	Isabelle Lallemant	Q71242	3415

23373 7590 10/13/2006

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EXAMINER	
KEASEL, ERIC S	

ART UNIT	PAPER NUMBER
3753	

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/603,938	LALLEMANT ET AL.	
	Examiner	Art Unit	
	Eric Keasel	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 July 2006*.

*2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8,9 and 11-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8,9 and 11-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 June 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8, 14-18, 23, 24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Crampton et al. (WO 99/02424).

Crampton et al. disclose a fluid dispenser comprising two sheets (2, 3) cooperating to define a fluid reservoir (23), at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (8) to which at least one of the sheets is fixed, said piece defining a dispensing orifice that is closed off by a removable closure member (10); in which the dispensing orifice opens out at an opening provided in one of the sheets; and a dispensing orifice is formed at the bottom of a concave recovery dish from which the fluid can be recovered by the user (when pressure is applied to the wall of the reservoir, some of the viscous fluid remains in the spout (8), which is a concave dish and the user can recover the fluid in this concave dish).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 8, 14-18, 23, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crampton et al. in view of Rehberger.

Crampton et al. disclose a fluid dispenser comprising two sheets (2, 3) cooperating to define a fluid reservoir (23), at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (8) to which at least one of the sheets is fixed and a dispensing orifice opens out at an opening provided in one of the sheets. In an alternative interpretation of Crampton et al., the reference fails to disclose a concave recovery dish. Rehberger discloses a concave recovery dish used with a similar deformable wall dispenser. It would have been obvious to one having ordinary skill in the art at

the time the invention was made to have used the concave recovery dish of Rehberger with the fluid dispenser of Crampton et al. in order to leave a desired quantity of fluid in the dish as taught by Rehberger.

5. Claims 2-6, 11, 19-22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crampton et al. in view of Hoyt (US Patent Number 4,732,299).

Crampton et al. disclose a fluid dispenser comprising two sheets (2, 3) cooperating to define a fluid reservoir (23), at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (8) to which at least one of the sheets is fixed, said piece defining a dispensing orifice that is closed off by a removable closure member (10); in which the dispensing orifice opens out at an opening provided in one of the sheets; and a dispensing orifice is formed at the bottom of a concave recovery dish from which the fluid can be recovered by the user (when pressure is applied to the wall of the reservoir, some of the viscous fluid remains in the spout (8), which is a concave dish and the user can recover the fluid in this concave dish). Crampton et al. fail to disclose the side bars. Hoyt discloses a similar fluid dispenser comprising two sheets (16, 18) cooperating to define a fluid reservoir (20), at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (14) to which at least one of the sheets is fixed, said piece defining a dispensing orifice (34) that is closed off by a removable closure member; in which the dispensing piece (14) comprises two side bars (46, 48) which extend on either side of the dispensing orifice; in which the sheets are fixed together over

a peripheral-margin of the reservoir along a sealing line that extends at least in part adjacently to the bars, with the bars being situated inside the reservoir; in which the bars form a rigid inner side peripheral margin for the reservoir; in which the sheets are fixed to the bars to define a rigid outer peripheral margin for the reservoir; in which the bars meet to form a closed frame; in which the dispensing orifice opens out at an opening provided in one of the sheets; and a dispensing orifice is formed at the bottom of a concave recovery dish from which the fluid can be recovered by the user. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the side bars of Hoyt with the device of Crampton et al. in order to provide a rigid portion connected to the dispensing orifice that is bonded to both sheets as taught by Hoyt.

6. Claims 2-6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crampton et al. in view of Rehberger as applied to claim 1 above and further in view of Hoyt.

The modified Crampton fails to disclose the side bars. Hoyt discloses a similar fluid dispenser comprising two sheets (16, 18) cooperating to define a fluid reservoir (20), at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (14) to which at least one of the sheets is fixed, said piece defining a dispensing orifice (34) that is closed off by a removable closure member; in which the dispensing piece (14) comprises two side bars (46, 48) which extend on either side of the dispensing orifice; in which the sheets are fixed together over a peripheral-margin of the reservoir along a sealing line that extends at least in part adjacently to the bars, with the bars being situated inside the reservoir; in which the bars form a rigid inner side peripheral margin for

the reservoir; in which the sheets are fixed to the bars to define a rigid outer peripheral margin for the reservoir; in which the bars meet to form a closed frame; in which the dispensing orifice opens out at an opening provided in one of the sheets; and a dispensing orifice is formed at the bottom of a concave recovery dish from which the fluid can be recovered by the user. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the side bars of Hoyt with the device of the modified Crampton in order to provide a rigid portion connected to the dispensing orifice that is bonded to both sheets as taught by Hoyt.

7. Claims 19-22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crampton et al. in view of Rehberger and Hoyt.

Crampton et al. disclose a fluid dispenser comprising two sheets (2, 3) cooperating to define a fluid reservoir (23), at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (8) to which at least one of the sheets is fixed and a dispensing orifice opens out at an opening provided in one of the sheets. In an alternative interpretation of Crampton et al., the reference fails to disclose a concave recovery dish. Rehberger discloses a concave recovery dish used with a similar deformable wall dispenser. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the concave recovery dish of Rehberger with the fluid dispenser of Crampton et al. in order to leave a desired quantity of fluid in the dish as taught by Rehberger. The modified Crampton fails to disclose the side bars. Hoyt discloses a similar fluid dispenser comprising two sheets (16, 18) cooperating to define a fluid reservoir

(20), at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (14) to which at least one of the sheets is fixed, said piece defining a dispensing orifice (34) that is closed off by a removable closure member; in which the dispensing piece (14) comprises two side bars (46, 48) which extend on either side of the dispensing orifice; in which the sheets are fixed together over a peripheral-margin of the reservoir along a sealing line that extends at least in part adjacently to the bars, with the bars being situated inside the reservoir; in which the bars form a rigid inner side peripheral margin for the reservoir; in which the sheets are fixed to the bars to define a rigid outer peripheral margin for the reservoir; in which the bars meet to form a closed frame; in which the dispensing orifice opens out at an opening provided in one of the sheets; and a dispensing orifice is formed at the bottom of a concave recovery dish from which the fluid can be recovered by the user. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the side bars of Hoyt with the device of the modified Crampton in order to provide a rigid portion connected to the dispensing orifice that is bonded to both sheets as taught by Hoyt.

8. Claims 9, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crampton et al. in view of Provenza (WO 01/79073).

Crampton et al. disclose a fluid dispenser comprising two sheets (2, 3) cooperating to define a fluid reservoir (23), at least one of the two sheets defining a deformable actuating wall on which it is possible to press to put the fluid under pressure in the reservoir, said fluid dispenser being characterized in that it further comprises a dispensing piece (8) to which at least

one of the sheets is fixed, said piece defining a dispensing orifice that is closed off by a removable closure member (10); in which the dispensing orifice opens out at an opening provided in one of the sheets; and a dispensing orifice is formed at the bottom of a concave recovery dish from which the fluid can be recovered by the user (when pressure is applied to the wall of the reservoir, some of the viscous fluid remains in the spout (8), which is a concave dish and the user can recover the fluid in this concave dish). Crampton et al. fail to disclose the radial channels and ribs. Provenza discloses radial ribs and channels used in a similar collapsible reservoir. It would have been obvious to one having ordinary skill in the art to have used the radial ribs and channels or Provenza with the device of Crampton in order to aid in completely withdrawing the liquid from the reservoir as taught by Provenza.

9. Claims 9, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crampton et al. in view of Rehberger as applied to claim 1 above and further in view of Provenza.

The modified Crampton fails to disclose the radial channels and ribs. Provenza discloses radial ribs and channels used in a similar collapsible reservoir. It would have been obvious to one having ordinary skill in the art to have used the radial ribs and channels or Provenza with the device of the modified Crampton in order to aid in completely withdrawing the liquid from the reservoir as taught by Provenza.

Response to Arguments

10. Applicant's arguments filed July 31, 2006 have been fully considered but they are not persuasive.

Applicant argues that the spout of Crampton et al. is neither concave nor a dish. The examiner disagrees. There should be no question that the cylindrical spout is concave. The broadly recited "dish" does not distinguish the disclosed hemispherical shape of applicant over the cylindrical shape of Crampton et al.

Applicant argues that one would not modify Crampton et al. with the teachings of Hoyt because the device of Crampton et al. can be placed in a box, which already adds some rigidity to the external surface of the bag. The examiner disagrees. The fact that the base reference adds some rigidity to the external surface of the bag does not teach away from adding the additional rigidity to the internal surface as taught by Hoyt.

Re Crampton et al. in view of Rehberger, applicant argues that two elements integrally constructed in one piece by screwing the elements together should not be considered a one-piece integral construction. The examiner disagrees. There is no connotation of one-piece integral construction that precludes elements being made integral by screwing them together. Furthermore, the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product was made by a different process (see MPEP 2113).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication should be directed to Eric Keasel at telephone number (571) 272-4929, who can normally be reached on Monday-Friday. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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